



Food Distribution National Policy Memorandum

United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

DATE: JUL 12 2011

POLICY NO.: FD-117: Food Distribution Program on Indian Reservations (FDPIR)

SUBJECT: Replacement of USDA Foods Destroyed Due to a Household Misfortune

Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 274.6 permit the replacement of SNAP benefits destroyed due to a household misfortune. FNS is adopting a similar policy for FDPIR.

Indian Tribal Organizations (ITOs) and State agencies must issue replacement USDA Foods to households that: a) submit a valid request for replacement of USDA Foods originally distributed through FDPIR which were destroyed or made unfit for human consumption in a household misfortune, and b) are not receiving SNAP disaster benefits (D-SNAP benefits) issued in accordance with 7 CFR Part 280. Section 1380 of FNS Handbook 501 will be updated to reflect this policy.

A *household misfortune* is an event beyond the household's control (e.g., flood, fire, tornado, hurricane) that results in the destruction of USDA Foods stored at the household's residence, or the destruction of USDA Foods in transit between the distribution site and the household's residence (e.g., a vehicle accident). A household misfortune could also be an extended power outage that prevents the household from storing refrigerated or frozen foods properly.

Procedures for Replacing USDA Foods in FDPIR

1. Households must request replacement of USDA Foods destroyed due to a household misfortune within 10 days of the date of the loss.

The request for replacement of foods destroyed due to a household misfortune must be received by the FDPIR ITO or State agency within 10 days of the date of loss. If the 10th day falls on a weekend or holiday, and a written request is received the day after that weekend or holiday, then the request is considered timely.

A written request must include a statement by the household that its USDA Foods have been destroyed, describing the misfortune (e.g., flood, fire, tornado, hurricane, extended power outage, or other cause), and its impact on foods received through FDPIR. The written request must be signed and dated by an adult member of the household or the household's designated authorized representative. Attached is a sample template that ITOs and State agencies may use to assist households in requesting replacements, but ITOs and State agencies are *not* required to use the sample template or develop another template for this purpose.

The FDPIR ITO or State agency may accept oral requests for replacement issuances. Oral requests may be appropriate if the household is unable to come to the FDPIR office. However, before replacement benefits are issued, the household must formalize the request in writing per the above requirements, *within 10 days of making the oral request* (e.g., by mailing in the request, or completing an ITO/State-provided form – this could be mailed or provided to the participant for completion during a home delivery). If the 10th day falls on a weekend or holiday, and the written request is received the day after, then the request is considered timely.

The ITO or State agency must inform households in writing that misrepresenting household circumstances to obtain replacement USDA Foods is an Intentional Program Violation (IPV), and explain the penalties for an IPV.

2. The ITO/State agency must determine the validity of the household misfortune before issuance.

The ITO or State agency must verify that the misfortune occurred through a collateral contact, home visit, or documentation from a community agency, including but not limited to a police department, fire department, electric company, or the Red Cross. The eligibility worker’s personal knowledge of the misfortune is sufficient for verification purposes.

3. The ITO/State agency must either a) replace the foods, or b) deny the household’s request.

<p>a) Replace the USDA Foods.</p> <p>Provide written notice of eligibility for the replacement foods.</p> <p>Replacement USDA Foods must be issued no later than <i>two business/working days</i> following the receipt of the household’s written request. This timeframe may be extended with justification, if approved by the FNS Regional Office.</p> <p>For all verified household misfortunes other than power outages, the household must be given the opportunity to have one full monthly food package replaced, up to the total quantity of USDA Foods issued to the household in the month that the foods were destroyed. Households, at their option, may take less than the maximum quantity made available to them.</p> <p>For verified power outages, only those foods requiring refrigeration must be replaced, up to the total quantity of refrigerated/frozen USDA Foods issued to the household in the month that the foods were destroyed. Households, at their option, may take less than the maximum quantity made available to them.</p> <p>Replacement foods may be the exact foods originally issued to the household or appropriate alternatives.</p>	<p>b) Deny a household’s request to replace the USDA Foods.</p> <p>Provide written notice of denial of the request for replacement foods.</p> <p>Reasons for denial may include:</p> <ul style="list-style-type: none"> • The household misfortune could not be verified; • The request for replacement was submitted more than 10 days after the household misfortune occurred; or • D-SNAP benefits were received in the same calendar month that the USDA Foods were lost. <p>Households that are denied replacement foods have the right to request a fair hearing to appeal the denial. Replacement USDA Foods will not be issued while the denial is being appealed.</p>
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If a household misfortune occurs at or near the end of a calendar month (e.g., July 31), and a timely, valid request is submitted for replacement of destroyed USDA Foods, the replacement benefits may be issued in the subsequent month.

4. The ITO/State agency must document the household's case record to include the following:

- a) the request for replacement, the date of the request, and the reason for the request; and
- b) verification of the household misfortune; and
- c) if the replacement request was approved, a list of the replacement FDPIR foods and quantities provided to the household; or
- d) if the replacement request was denied, the reason why it was denied.

5. Replacement USDA Foods must be reported on the FNS-152 Report, Monthly Distribution of Donated Foods to Family Units.

In the future, the FNS-152 Report, Monthly Distribution of Donated Foods to Family Units, and the Food Programs Reporting System, will be modified to allow the reporting of replacement USDA Foods. Until this modification is completed, the FDPIR Automated Inventory System (AIS) will continue to use the current FNS-152 reporting format. When the modification is completed, AIS will be updated to reflect the reporting changes.

To report replacement of USDA Foods in AIS until FNS-152 modifications can be made:

1. Access the AIS Inventory System Menu,
2. Select a Commodity Transaction for each food item used to replace what has been lost,
3. Enter the transaction date for the month in which the foods were used for replacement,
4. Enter **A** for the transaction code (Adjustment),
5. Enter **C** for the adjustment type code (Unfit/Condition),
6. Enter **HH REPLACEMENT** in the message field,
7. Proceed with entering the amount of foods used for replacement and saving the transaction, and
8. Verify that the transaction entry on the FNS-152 matches the physical inventory count.

Questions regarding AIS input may be referred to Doug Friesen at 303-844-0375. All other questions may be referred to the appropriate FNS Regional Office staff, who may in turn contact Dana Rasmussen or Rogelio Carrasco at 703-305-2662.

Dennis D. Sullivan

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Cathie McCullough
Director
Food Distribution Division

Attachment

-Sample Template-

**Food Distribution Program on Indian Reservations (FDPIR)
Request for Replacement USDA Foods Due to Household Misfortune**

- Your household may receive replacement USDA Foods if the foods you originally received through FDPIR were destroyed in a household misfortune (e.g., flood, fire, tornado, extended power outage, hurricane, or a vehicle accident on your way home from the distribution site).
- To receive replacement foods, you must request replacement foods no later than 10 days following the date the USDA Foods were destroyed. Although an initial request may be made orally, you must provide a written, signed request within 10 days of the oral request. You may use this form to request replacement USDA Foods.
- If you experienced a household misfortune other than an extended power outage, you may receive up to a full month's issuance for your family size. If you experienced an extended power outage, you may receive up to a full month's issuance of refrigerated/frozen foods for your family size. *You cannot receive more replacement foods than you originally received. Replacement foods may be the same food items you received before or appropriate alternatives, based on availability at the FDPIR distribution location.*

IMPORTANT:

- **You cannot request replacement USDA Foods for the same month that you receive Disaster Supplemental Nutrition Assistance Program (D-SNAP) benefits.**
- **If you are denied replacement foods, you have the right to request a fair hearing by an impartial official. Replacement USDA Foods will not be issued to you while the denial is being appealed.**

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Name of Head of Household:

Address:

Telephone:

My household experienced a misfortune on _____ (date) and USDA Foods that we received were destroyed. Check all that apply regarding the misfortune that you experienced:

- | | |
|------------------------------------|---------------------------------------|
| <input type="checkbox"/> Flood | <input type="checkbox"/> Tornado |
| <input type="checkbox"/> Fire | <input type="checkbox"/> Power Outage |
| <input type="checkbox"/> Hurricane | <input type="checkbox"/> Other: _____ |

If your household experienced a power outage, please list the types and amounts of USDA Foods that require replacement due to lack of refrigeration:

IMPORTANT: I understand that it is an intentional program violation (IPV) to provide false information regarding USDA Foods destroyed in a household misfortune, and that if I misrepresent my household's circumstances I may be disqualified from participating in FDPIR for 12 months for the first IPV, 24 months for the second IPV, and a permanent disqualification for a third IPV.

(Signature of Adult Household Member or Authorized Representative)

(Date)

FAIR HEARING: If you disagree with any action taken on your case, you or your representative have the right to request a fair hearing. You may request a fair hearing in writing or orally. If you request a fair hearing, your case may be presented by a household member or representative, such as a legal counsel, a relative, a friend or other spokesperson.

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, religion, political beliefs or disability. To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.

Agency Only:

Notes on food codes and number of units of USDA Foods replaced, if applicable.
